From:
Denis Franklin, MD, W6EW
1932 E Jacaranda Cir
Mesa, AZ, 85203

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RE: DA 12-523 Commission seeking comments upon the usefulness of ham radio in emergency communications and impediments thereto produced by restrictive covenants affecting the use of private property.

Greetings:

HAM OPERATIONS IN EMERGENCY COMMUNICATIONS

This, as they say, is not my first rodeo. The antenna tower I am in the process of erecting at my present home is my third. In this case, at the age of 77, I knew better than to buy a house in an area with a Homeowners Association or CC&Rs. And I researched local ordinances before selecting a place to live. But getting my first tower up in 1966 was a nightmare.

As a physician and a ham since the mid-1960s, I have had many opportunities for combining those skills for the provision of emergency and disaster communications. I will mention only a few examples before getting on to my main topic, the impediments that ordinances and CC&Rs have placed in the path of those efforts.

In the time before cell phones I stopped at every highway accident, often in the middle of nowhere, to call for help and render medical assistance. I helped get medical supplies and communications to cities struck by earthquakes in other parts of the world. In the mid-1970s, after witnessing the crash-landing of a damaged PanAm 747SP at SFO, I wrote a grant application for, then became the director of a project to provide the first paramedic services to the 500,000 residents of my county, coordinating use of the ten telemetry frequency-pairs with the eight other Bay Area counties who shared them.

Twenty-five years later, after moving across the Bay and erecting my second ham tower, following 9/11 I volunteered with the Sheriff's emergency and disaster Communications Team, and, having written some articles on the subject for QST, installed a complete HF and VHF WinLink system at my home, on the Sheriff's high-speed patrol boat on the Bay, in the Team's Comm Van and at the County Emergency Operations Center. I followed up by putting an APRS tracking station in the Comm Van for use in Search and Rescue operations.

Upon retiring to Arizona I've joined the Sheriff's Communications Posse, which is active in providing a communications assist to mountain and desert rescue teams.

Naturally I follow the news regarding disaster communications. My experience tells me, as your own must tell you, that in area-wide disaster relief, HF communications are often critical, since, especially in the early stages, local communications systems are usually inoperative. For example, calls for help from people trapped by Hurricane Katrina sometimes went through hams in places like Wisconsin. It is simply the nature of such things. Hence the need for large antennas that are bigger than a buggy-whip.

And you are fully aware that the much sought-after "interoperability", at this stage, and probably for many years to come, often still comes down to taking advantage of ham communications.

Integrating ham radio resources into National Incident Management System (NIMS) planning is not an antiquity, it is a living, contemporary strategy.

INTERFERENCE WITH HAM OPERATIONS

Frankly, it is sometimes a mystery to me why hams are so determined to help people who, in the form of local ordinances and homeowner restrictive covenants seem determined to prevent them from doing so.

At first I thought I had enjoyed dumb luck, because I discovered after buying my first home that the CC&Rs that would have forbidden any antenna other than a TV Yagi, had been struck down. Why? Because they also forbade selling to "negros" and asians, or even having non-white guests in one's home for more than two consecutive nights. But despite that, of course I soon ran athwart the Planning Commission, which said that to go above the 35-foot height limit I would have to obtain the unanimous permission of all my neighbors. A single neighborhood curmudgeon objected and my application for use permit was denied.

By the time I prevailed I had paid the lawyer all the money I had saved for a tower, and could afford only a 35-foot free-standing crank-up anyway. Ironically, the back of my house was 37 feet high. As PRB-1 has gained strength over the decades that problem has abated in many locations. Yet even in the past couple of years I've written letters to city councils and planning commissions in Southern California who were bound and determined to protect their skyline against the intrusion of ham antennae. When their obstructionism became impaired by PRB-1, councils and commissions merely changed the wording of their restrictive ordinances and rules, in an attempt to build an impenetrable wall of administrative procedures. Hard to believe that cities in the heart of earthquake-country would

be so short-sighted, but one has to recall that the members of suburban city councils and planning boards are often real estate brokers and local businesspeople, pandering to the short-tem interests of their constituents. Homeowners associations are often peopled and led by the kind of folks who go around measuring the length of their neighborsâ?? yard grass and complaining about tricycles left in the front yard. They are determined to protect the most superficial values. While they are preoccupied with appearances, they don't give a rap whether a neighbor has an earthquake kit in his garage.

In my second home, in order to go above 45 feet with my tower (and this was after PRB-1 had been generally recognized), I would have had to pay an $800.00 non-refundable application fee for a use permit, with no guarantee the permit would have been issued. Older and wiser this time, I got a building permit for an 82-foot tower and put it up. Then I cranked it up to 45 feet. The city inspector's brother was a ham, and the inspector told me that if anyone complained about my tower being higher it would be he who would have to come out and measure it. "And I", he said meaningfully, "am FAR too busy to ever get around to it." Lucky for me that in an emergency I would have had a tall tower, but it is never a good feeling to me to break the letter of the law.

When I moved, my first tower was donated to the Red Cross. The second one went to the Coast Guard.

Now I have completed the foundation and am awaiting the factory's completion of a 55-foot telescoping, tubular tower. Because of our desert storms and severe wind gusts, I am having the tower made from the heavy, lower three sections of an 85-foot design. I will use a Steppir antenna because of its compact design. The city permits any ham tower less than 75 feet and, as I said, I selected a house where there is no homeowners association. But not everyone has the freedoms I enjoy as an elderly bachelor. Many hams must decide where they live according to other life-criteria: where the schools are good, near to jobs, near shopping, medical resources and the like. Young hams often live in their parents' homes, chosen without any thought for ham radio antennas. Though forced to live where there are homeowners associations, for the good of the public at large those hams should also be protected against arbitrary and restrictive covenants, and against the prohibitively expensive burden of struggling against them.

Though a physician, I did go to law school for a couple of years. It is my recollection that some contracts are struck down as being against the public good. Private contracts, per se are not sacred. There are, after all, many contracts into which it would be illegal to enter. It is not the individual, nor the homeowners association that decides what contracts are against public policy, but legislatures, judges and administrative agencies such as your own. If our efforts to design emergency and disaster response systems, and particularly comprehensive and interoperable communications systems, are not to become stuck and stymied by short-sighted individuals focused on the most

trivial, superficial, and least functional aspects of modern life, it is time for the FCC to declare it to be against public policy that CC&Rs restrict hams from erecting antennas whose dimensions are determined by the wavelengths of the frequencies they must use.

Because local politicians are so willing to try to evade the spirit of rules such as PRB-1, and because restrictions are usually couched in terms of specific height limits, and because those who impose those restrictions are totally ignorant of the scientific and technical considerations that determine antenna size, I further recommend that the commission consider adding specific height requirements to PRB-1 and whatever rules are promulgated regarding CC&Rs. It is entirely too discouraging hams to have to bear the burden of proof to convince councils and commissions whose ears remain intentionally deaf.

Thank you for your attention to these matters.

Denis Franklin, AB, MD, ABFP, ABPN, ABPN-AP, W6EW ;-)